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# Emergency Rules

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## Title 13—DEPARTMENT OF SOCIAL SERVICES Division 35—Children's Division Chapter 60—Licensing of Foster Family Homes

### EMERGENCY RULE

#### 13 CSR 35-60.010 Family Homes Offering Foster Care

**PURPOSE:** This rule explains that the Children's Division is responsible for licensing foster homes. Terms used for this purpose are defined. The rule also gives procedures for approval, denial or revocation of a license.

**EMERGENCY STATEMENT:** In order to adequately protect the children who have been placed in the division's custody, the division must set criteria and standards for the foster homes which care for these children. These homes provide twenty-four (24)-hour care for children and safety of the children, must be assured at all times. The current rule does not sufficiently state the requirement that the division make placement decisions based on the compelling issue of the child's best interest. This emergency rule is necessary to address court decisions that have held that in order for a policy of general applicability to have effect, it must be promulgated as a rule (*Eileen Reed v. Mo. Department of Social Services, Family Support Division*, Case No. ED87348, 6/20/2006) and by a court decision that found certain criteria used by the Children's Division in the licensing process to be unconstitutional. (*Lisa Johnston v. Mo. Department of Social Services, et al*, Case No. 0516CV09517 Jackson County Circuit Court 2/17/06). The promulgation of this emergency rule is necessary to preserve the compelling governmental interest in protecting children by establishing in rule the procedures for licensing of foster parent homes and placement of children. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The division believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed July 18, 2006, effective August 4, 2006, expires January 30, 2007.

##### (1) Approval of License.

(A) As required in sections 210.481–210.536, RSMo 2000, any individual(s) planning to offer twenty-four (24)-hour care to one (1) or more foster children must submit signed application forms.

(B) Any applicant and any household member age seventeen (17) and older and any child less than seventeen (17) who has been certified as an adult for the commission of a crime, or has been convicted or pled guilty or *nolo contendere* to any crime, shall submit signed release forms and two (2) sets of fingerprints for the purpose of obtaining background screening for Child Abuse and Neglect, criminal and circuit court records.

1. Two (2) sets of fingerprints shall be sent to the Missouri Highway Patrol for criminal background checks.

2. Subject to appropriation, the total cost of fingerprinting required by section 210.487, RSMo Supp. 2005 may be paid by the state, including reimbursement of persons incurring the cost of fingerprinting under this section.

(C) Upon compliance with licensing law and regulations, the director shall authorize issuance of a license for a term not to exceed two (2) years, subject to renewal on expiration.

1. The license is not transferable and applies only to the individual(s) to whom it is issued. A license will be issued to either married couples or a single individual. Only one (1) license can be issued per household. All adults in the household who will have child care responsibility will be required to attend state approved foster parent training.

2. The license is the property of the division and is subject to suspension and/or revocation upon failure of the individual(s) to comply with the licensing requirements.

3. The license shall be kept on the premises of the home.

4. The number, sex and age range of foster children the home is authorized to accept for care shall be specified on the license and shall not be exceeded except for the temporary placement of sibling or mother and child family groups. The foster family shall be able to indicate age and gender preference.

5. There shall be no fee for the license or investigations conducted by the personnel of the division or providers contracted by the division.

6. An identification card shall be issued to each foster parent at the time of initial licensure or renewal, verifying current licensing status.

##### (2) Denial, Suspension, or Revocation of License.

(A) Any person aggrieved by a final decision of the division made with regard to license issuance, license suspension, license revocation or license denial shall be entitled to a hearing and review by the director or his/her designee.

(B) Written notice, specifying the reasons for denial, suspension, or revocation, shall be provided. Any notice for suspension or revocation shall be given ten (10) days prior to the effective date of the action. If a written request for a hearing is received within thirty (30) calendar days from the date of the notice, a hearing will be provided.

(C) The division will retain the option not to renew a foster home license in cases where there has been a voluntary suspension for one (1) year or more or if a licensed foster home has not accepted a placement over a two (2)-year period.

(D) Any person wishing to appeal the administrative decision of the division shall be entitled to judicial review thereof provided in section 210.526, RSMo 2000.

##### (3) Utilization of Home.

(A) The granting of a license does not guarantee placement of a child.

(B) Placement decisions shall be made at the discretion of the Children's Division and/or Juvenile Court in the best interest of the child based on a totality of circumstances. Parental preferences will be taken into consideration in selecting the placement provider.

(4) Exemption. Any foster home that is exempt from licensing under sections 210.481–210.536, RSMo 2000 but receives a payment from the division under section 207.020.1(17), RSMo 2000 shall comply with these rules.

**AUTHORITY:** sections 207.020 and 210.506, RSMo 2000. Emergency rule filed July 18, 2006, effective Aug. 4, 2006, expires Jan. 30, 2007. An emergency rule and proposed rule covering this same material will be published in the September 1, 2006 issue of the *Missouri Register*.